1949. File No. Requisition II/49
Legal Department-I

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Subject:—

Notifications under the
Indian Requisition Act. 1908

R-8

File No. Requisition II/49(IV)

67-B

Legal Department

Four revised draft notifications are sent herewith.

2. The Revenue Department does not appear to have taken into account the effect of the provisions contained in paragraph 6 of the Indian States (Application of laws) Order, 1948. Under that paragraph any officer appointed under any law in force in any Indian State and repealed by the Order shall be deemed to have been appointed under the corresponding enactment extended to the Indian State by the Order. In virtue of the provisions of the said paragraph a Registrar appointed under the State law continues to be a Registrar under the Indian Registration Act, 1908, with the jurisdiction he possessed under the repealed Act. The fact that a whole or some portion of the State territory has been integrated for the purposes of the Bombay Land Revenue Code, 1879, by the notification No.2325/46-F (1) and (2) respectively, dated 30-7-1948 would not affect the appointment and jurisdiction of Registrars wherever they are so continued by the Indian States (Application of Laws) Order, 1948. The view taken at 'A' on page 23 and at 'B' on page 17 ante by the Inspector General of Registration and at 'C' on page 26 ante by the R.D. that the Collectors of those districts, within which certain areas of the States have been merged by Government Notification, P. & S.D., No. 2325/46-F (1) and (2) dated the 30th July 1948, will be automatically the District Registrars for those areas is not correct. As stated above, the Registrar, if any, in the Indian State would continue, until superseded, to have jurisdiction over the portion merged in any district of the Province for the Land Revenue Code. Even under the Indian

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Registration Act, 1908, a Registrar has to be appointed by the Provincial Government under section 6. Generally a Collector is appointed as a Registrar but that does not mean that he becomes a Registrar ex-officio.

3. As the areas of the Indian States specified in P. & S.D. Notification No. 2325/46-F(1), dated the 30th July 1948, do not form part of the Province of Bombay, the best solution would be to appoint the Collectors of the adjoining districts to be the Registrars of each of the Indian States or part thereof under the Indian Registration Act, 1908, now extended to it in supersession of the existing arrangement. Notification No. VI is accordingly sent herewith. For the same reasons, the R.D. draft at page 31, in so far as it relates to the constitution of the Registration District of Sangli has been split up. Draft No. V carries out that object.

4. It is necessary also to appoint the Collector of Sangli as the Registrar for the registration district of Sangli under section 6 of the Act. Notification No. VII for the purpose is sent herewith.

5. The Registrars for the Banas Kantha and Sabar Kantha may be similalry appointed under section 6 of the Act..

Id/-J.R.D. 31/12
Additional Secretary to Government.

U.R. to R.D. No. 12531 dated the 31st December 1948.

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The form of notification under sec. 5 of the Act, as revised is in order.

2. The limits of Registration districts and sub-districts should be verified by R.D. before the notification is issued.

3. The view taken by R.D. that if there are minor changes as regards villages, such villages can be notified by an erratum is not correct. The notification proposed to be issued under section 5 directs that the limits of sub-districts shall be as shown therein i.e. in some cases as co-terminous with the revenue talukas or mahals and in some cases as consisting of certain villages. If inthe notification issued finally under section 7 of the B.L.R. Code x certain villages which are proposed to form limits of the registration sub-districts are included intalukas or mahals in which they are not included in the preliminary notification under section 7 of the Code and if consequential changes are not made simultaneously in the notification issued under sec.5 of the Indian Registration Act, the jurisdiction over them will be exercised both by Registrar who would exercise jurisdiction within talukas or mahals in which such villages may have been absorbed finally and also by the Sub-Registrar who will be given similar jurisdiction in the notification under the Registration Act on account of the inclusion of such villages in the areas under his jurisdiction. This might result inrendering the documents registered with the Sub-Registrar invalid.

4. Sub-section (3) of section 5 of the Indian Registration Act provides that every alteration shall take effect on such day <u>after the date of the notification</u> as is <u>therein mentioned</u>. In the notification to be issued under section 5, the date on which it is to come into force will have to be notified. That date will have to be some date after the date on which the notifi-

cation is issue.

5. It appears that there is a separate notification for Bombay City xxxxxx constituting it as a separate district under the Indian Registration Act, 1908 (G.N., R.D.No. 1940/24, dated 19th November 1941). As the Bombay Registration District will not be affected by the new set up of districts it is not understood why R.D. should have included the Bombay District in the proposed notification. It has now been deleted from the draft.

6. The draft notification under section 7 of the Act, as amended, is in order.

7. The draft notification at p. 0 ante as amended is in order.

Id/-J.R.D. 13/6
Additional Secretary to Government.

U.R. to R.D.No. 6508 ,dated the 13th June 1949.

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Legal Department.

As advised at "A" in Additional Secretary's opinion No. 7528, dated 7th July 1949, the Revenue Department states that the necessary modification will be made in the general notification to be issued under the Indian Registration Act. The notification as proposed may issue.

2. As regards the portion at "B" at page 63 ante please see the draft of the general notification supplied to the Revenue Department under U.R. No. 6508, dated the 15th June 1949. The Explanation to the said notification is as follows :-

"Explanation:- The words districts, talukas and mahals as used in this notification shall mean districts, talukas and mahals formed under section 7 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879) and notified under Government Notification in the Political and Services Department No. dated 1949."

With reference to the notification at "C" Revenue Department now informs that the said Political and Services Department Notification does not cover the districts of ~~xhmednxgxx~~ Ahmednagar, West Khandesh, East Khandesh, Kannara ~~xx~~ and the Bombay Suburban District. In that case the above Explanation in respect of districts of Ahmednagar, , West Khandesh, East Khandesh Kanara and Bombay Suburban District will not be appropriate. The words "and notified under Government Notification in the Political and Services Department No. ,dated 1949." should be deleted from the said Explanation.

Id/-J.R.D. 15/7
Additional Secretary to Government.

U.R. to R. D. No. 8035 , dated the 16th July 1949.

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Legal Department.

The notifications at pages 53, 55, 57 and 59 ante, as amended, are in order.

The Revenue Department has proposed in another file to supersede the present notification No. 1940/24, dated the 1st November 1940 and to create new registration districts and sub-districts in view of the enlargement of the area of the Province of Bombay by the additions of the areas of merged and integrated States. In the draft proposed by the Revenue Department in that connection the registration sub-district of Bagalkot has been shown to consist of the revenue taluka of Bagalkot and Bilgi Petha. If the intention is that the Bilgi sub-registration district which is now being created should continue even after the date on which the general notification will be issued, it is necessary to modify the general notification as in so far as it pertains to the Bagalkot sub-district and to divide it into Bagalkot and Bilgi sub-districts.

The Revenue Department also should verify whether the Political and Services Department notification proposed to be issued under section 7 of the Bombay Land Revenue Code covers all the districts which are specified in the Revenue Department general notification under section 5 of the Registration Act, 1908.

Id/-J.R.D. 6/7
Additional Secretary to Government.

U.R. to R.D. No. 7528 ,dated the 7th July 1949.

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Legal Department.

The view taken by the Inspector General of Registration in para. 3 of his letter at pages 119-120 ante is not correct.

2. It is clear from the Revenue Department Notification No. 2325/46F(1), dated the 30th July 1948 that the areas of the adjoining Indian States have been included in the districts for the purposes of the Land Revenue Code. It is significant to note that under the said notification the Collectors of the districts were also specifically appointed as the Collectors for the areas of the Indian States merged in the districts. It is true that Government Notification, Revenue Department No. 1940/24, dated the 1st November 1940 issued under section 5 of the Indian Registration Act, 1908 directs that the limits of the registration districts shall be co-extensive with the limits of the districts formed under the Bombay Land Revenue Code 1879. But this notification must be held to apply to the districts in the Province of Bombay as constituted under the Government of India Act, 1935. Just as in the Revenue Department notification No. 2325/46F(1), dated the 30th July 1948,-the Collector of the respective districts were specifically appointed as Collectors for the State areas merged in the districts, it is also necessary to appoint under section 6 of the Indian Registration Act the Collectors of the Districts concerned as the Registrars for the State Areas. It may further be observed that even though by para. 5 of the Indian States (Application of Laws) Order 1948, the enactment corresponding to the Indian Registration Act 1908, in force in any Indian State has been repealed it is provided under para. 6 thereof that any authority

or officer, ~~xxxxx~~ constituted or appointed under any law in force in any Indian State and repealed by this Order shall be deemed to have been constituted or appointed under the corresponding enactment extended to the Indian States. In view of this specific provision contained in the above Order continuing the offices of the States under the Indian Registration Act, it is necessary for the purpose of ousting their jurisdictions to appoint Collectors as Registrars in their places. The general provision contained in the Government Resolution, Revenue Department No. 966, dated the 12th February 1902 quoted by the Inspector General of Registration cannot override the specific provision made in para. 6 of the Indian States (Application of Laws) Order 1948 in so far as the Indian States areas are concerned.

Id/- J.R.D. 19/7
Additional Secretary to Government.

U.R. to R.D. No. 8138 ,dated the 19th July 1949.

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Legal Department.

The notifications at page 9 ante as slightly amended are in order.

2. As required by section 5 of the Act the date to be specified in the draft notification I at page 9 ante should be the date subsequent to the date of the issue of the notification.

S/-J.R.D. 12/8
Additional Secretary to Government

With R.D.File No. 9257/45 -L

U.R. to R.D. No. 9140 ,dated the 12th August 1949.

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